

TESTIMONY OF BAKER SPRING
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BEFORE
THE SUBCOMMITTEE ON
NATIONAL SECURITY, EMERGING THREATS
AND INTERNATIONAL RELATIONS
OF
THE UNITED STATES HOUSE OF REPRESENTATIVES
ON
WEAPONS OF MASS DESTRUCTION:
CURRENT NUCLEAR PROLIFERATION CHALLENGES
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Mr. Chairman, I am honored to have the opportunity to testify before your Subcommittee. The challenge to the national security of the United States posed by the proliferation of weapons of mass destruction, and nuclear weapons in particular, along with the related challenge presented by terrorism, should be of supreme concern to Congress. Thus, this is a timely and important hearing.

Earlier in this hearing, the Subcommittee heard from Dr. Hans Blix. Dr. Blix has served as the chairman of an international commission recommending approaches to countering the proliferation of weapons of mass destruction. The report of the Weapons of Mass Destruction Commission (hereafter referred to as the Commission), entitled *Weapons of Terror: Freeing the World of Nuclear, Biological, and Chemical Arms*, was released on June 1. Given the seriousness of this report and the attention it has drawn, I think it will be useful to focus my remarks on some of the more important recommendations of the Commission. In keeping with the topic of this hearing, I will limit my remarks to the issue of nuclear proliferation.

The recommendations of the Commission, specifically as they relate to the topic of nuclear proliferation, constitute a mixed bag of approaches. Some of the recommendations are valuable and will point the U.S. government in the right direction. Others, while well-intended, will not serve the cause of nuclear nonproliferation well. It is therefore important that Congress view the Commission's recommendations with a discriminating eye.

VALUABLE RECOMMENDATIONS

There are five recommendations in the Commission report that make a solid contribution to the shared cause of nuclear nonproliferation. These are recommendations Congress would be wise to incorporate into U.S. nuclear nonproliferation policy.

Focus on the underlying motivations that drive nuclear proliferation. Among the Commission's recommendations regarding proliferation generally is one that states should pursue policies "designed to ensure that no state feels a need to acquire weapons of mass destruction." In the area of nuclear weapons in particular, this recommendation is pertinent. It recognizes that broader requirements for security cannot be separated from matters related to nuclear proliferation. Nuclear nonproliferation policy must take account of the circumstances that lead states to pursue nuclear weapons in the first place.

This recognition has driven The Heritage Foundation to undertake a series of studies, related to stability in regional settings that are presumed to be proliferated with nuclear weapons, by using the game tool. These studies do not necessarily assume that nuclear proliferation is inevitable. Rather, they are an attempt to provide a means to understand the value or lack of value of nuclear weapons in addressing broader security concerns by proliferating states in these regional settings. The focus is more on matters of use and nonuse rather than possession.

By implication, the Commission's recommendation regarding the underlying desire for nuclear weapons suggests a two-track policy for addressing nuclear proliferation. The first track is represented by the global nuclear nonproliferation regime derived from the Nonproliferation Treaty (NPT). The second track is represented by efforts at regional security arrangements that will dampen the appetite for nuclear weapons and pave the way for realization of the goal of the NPT, which is just five states possessing nuclear arms.

Address the special threat posed by terrorist organizations attempting to acquire nuclear arms. The Commission report pays special attention to the threat posed by terrorist organizations that are seeking nuclear weapons. Since there is compelling evidence that terrorist organizations are working to obtain nuclear weapons and other weapons of mass destruction, this emphasis is warranted. Given the experience with September 11, it is also clear that terrorist organizations, compared to states, are more likely to use any such weapons that they obtain.

The Commission specifically recommends working on measures for preventing terrorists from obtaining the fissile material necessary to build a weapon and assembled weapons. At the heart of these measures is strengthened procedures for insuring the physical protection of fissile material and weapons by the states that possess them. To its credit, the Bush Administration is already promoting these measures, both multilaterally and with individual states. It provided leadership at the United Nations Security Council to obtain approval of United Nations Security Council Resolution 1540. Further, it is working with the states of the former Soviet Union under the Cooperative Threat Reduction Program. As you know, Congress has provided essential support to the Bush Administration in this effort.

Address the regional dimension of the nuclear proliferation problem. The Commission also paid special attention to the regional dimension of the nuclear proliferation problem. Appropriately, it has focused on the Middle East and South Asia regions. Clearly, the U.S. and other states need to pay attention to the special proliferation problems presented by India, Iran, and Pakistan. On the other hand, the Commission, in my view, should have considered the special problem presented by North Korea more thoroughly in this section of its report. The Bush Administration and Congress are already focused on the problem cases of India, Iran, Pakistan, and North Korea. In fact, efforts by the U.S. and Great Britain on this front have led to a breakthrough with the government of Libya in acknowledging its possession of production components for building nuclear weapons and agreeing to divest itself of these components.

The Commission's primary recommendation is to strengthen the process for adopting and implementing nuclear weapons-free zones in relevant regions. While this recommendation is appropriate in certain instances, it must be supplemented by an effort that focuses on the issues surrounding the use of nuclear weapons as much as it focuses on their mere possession. This means stepping up the effort in the second track of the

two-track policy I described earlier by engaging in broader discussions of regional security.

Continue the U.S.–Russian nuclear arms control process. The Commission’s report places strong emphasis on the relevance of the U.S.–Russian arms control process to nonproliferation. There is no doubt that the U.S.–Russian process is relevant. The fact that U.S. and Russian negotiators met here earlier this month to discuss the future of the Strategic Arms Reduction Treaty (START) indicates that both the Bush Administration and the Russian government understand this linkage. Congress would be well-advised to support the efforts of the Bush Administration in these talks.

The Commission, however, is rather stingy in its acknowledgment of the considerable progress that the U.S. and Russian governments are making toward reducing their nuclear forces. The Commission uses the phrase “disarmament in disarray” too easily. It also takes an explicitly anti-American stance in this regard, charging that the U.S. is “less interested in...treaty making that it was during the Cold War.”

In fact, strategic arms control is *not* in disarray. During the Cold War, despite what the Commission sees as a greater willingness by the U.S. to engage in arms control, strategic nuclear forces in both the U.S. and the Soviet Union were growing rapidly. Today, the U.S. and Russia are on a path to reducing their strategic nuclear forces to between 1,700 and 2,200 warheads each under the Strategic Offensive Reductions Treaty (SORT) or Moscow Treaty. It is unequivocally the case that the U.S. and Russia are meeting their obligations under Article VI of the NPT.

Maintain high standards for the handling of fissile material and nuclear weapons. Physical protection measures for fissile material and nuclear weapons are a matter of great concern to the Commission. This is appropriate. Nobody wants to see the chain of custody over fissile material or nuclear weapons break down, other than the terrorist organizations that will use criminal means to obtain nuclear weapons.

The Commission rightly points to the need to insure that the people who are responsible for managing and executing these physical protection measures are both reliable and technically competent. Congress would be well-advised to use its oversight responsibilities to ensure that the system for investigating the backgrounds of individuals who are recruited for these sensitive jobs in the U.S. nuclear sector is strong and that they are given continuous training in their careers. Assuring the physical security of the nuclear materials and weapons in the U.S. should be among Congress’s highest priorities.

MISGUIDED RECOMMENDATIONS

Unfortunately, the Commission report also makes a number of recommendations that will not serve the nonproliferation cause. In these cases, Congress would be wise to set the recommendations aside and not incorporate them into U.S. nuclear nonproliferation policy. On this basis, the specific stances that both the Bush

Administration and Congress should take regarding U.S. nonproliferation policy that step away from the Commission's recommendations are as follows.

Do not attempt to proceed directly to comprehensive nuclear disarmament.

As the title of the Commission's report makes clear, its recommendations are focused more on outlawing weapons of mass destruction, and most specifically nuclear weapons, than on nonproliferation. While the issues of nonproliferation and abolition are related, they should proceed sequentially. The framers of the NPT did not intend for the treaty to be an abolition treaty. If that had been their intention, they would have drafted a treaty that outlaws nuclear weapons. They did not do so because they recognized that a treaty outlawing nuclear weapon was too ambitious an undertaking at that time.

Given that the treaty's goal of nonproliferation has still not been realized over 35 years later, their caution was well-founded. It is clear that the relationship between nuclear nonproliferation and nuclear abolition is one of sequential timing. The NPT's more immediate goal of limiting the world to five designated states possessing nuclear weapons should be the focus of attention. The Commission, however, applies the convoluted logic that the goals for nuclear arms control will be more attainable if the goal posts are moved farther away.

The Commission's emphasis on disarmament over nonproliferation would also put nuclear arms control on a dangerous path. The Commission draws explicit ties between its stated goal of outlawing nuclear weapons and existing treaties outlawing the other two categories of weapons of mass destruction: biological and chemical weapons. Therefore, it is critical that this Subcommittee recognizes the implications of the approach recommended by the Commission.

The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, for example, entered into force in 1975. The U.S. is a party to the treaty and long ago dismantled its arsenal of biological weapons. Nevertheless, biological weapons still exist in the world today, and the U.S. was subject to limited attacks with biological agents in 1984, 2001, 2003, and 2004. If the U.S. goes down the path of nuclear disarmament recommended by the Commission, it is all but certain that the U.S. will wind up possessing no nuclear weapons while other states and non-state actors will continue to possess them. This outcome is completely at odds with the requirements for U.S. security now and in the future. The U.S. should not pursue nuclear disarmament until nuclear weapons are no longer necessary to protect its national security.

Do not apply nonproliferation policy in a way that attempts to override the nation-state system and state sovereignty. The Commission denigrates the right of states to take steps, including the use of force, to defend themselves. It would leave it to the United Nations Security Council to determine when a state is sufficiently threatened to take steps in its own defense. It misinterprets Article 51 of the United Nations Charter as defining the right of self-defense as a qualified right. Article 51, in fact, recognizes the

right to self-defense as an inherent right. Self-defense is both a necessary attribute of state sovereignty and a state's obligation to its citizens.

Neither the U.S. nor any other sovereign state should cede to the United Nations Security Council the authority to determine when it is threatened and what measures it may take to meet any recognized threat. This is because the Security Council and other institutions of the United Nations have no responsibility for or interest in defending the security of any particular state and no obligation to the citizens of that state. Just because some United Nations bureaucrats want the power to override state sovereignty is no guarantee that they would assume any commensurate responsibility. In short, they seek power without responsibility or accountability.

This pertains to issues of nonproliferation and arms control as much as it does to the use of force. Former Secretary of State George Shultz put it best in a speech he gave before the Library of Congress in February 2004, when he stated:

First and foremost, we must shore up the state system. The world has worked for three centuries with the sovereign state as the basic operating entity, presumably accountable to its citizens and responsible for their well-being. In this system, states also interact with each other to accomplish ends that transcend their borders. They create international organizations to serve their ends, not govern them.

Do not pursue a “no first use” policy or expand the granting of “negative security assurances.” The Commission also recommends that the U.S. and other nuclear weapons states adopt a no first use policy regarding nuclear weapons and expand the granting of “negative security assurances” to non-weapons states. The first proposal would have the U.S. and other nuclear weapons states pledge that they will never be the first to use nuclear weapons. Theoretically, this would prohibit the use of nuclear weapons because if all nuclear weapons states pledged not to use nuclear weapons first, then no such state would be in a position to use this type of weapon. The second proposal would have the U.S. and other nuclear weapons states enter into a treaty that would prohibit these states from using or threatening to use nuclear weapons against a non-weapons state.

Both recommendations are at odds with the requirement for deterrence. The U.S. has been careful not to state categorically under what circumstances it might resort to the use of nuclear weapons. This policy of constructive ambiguity is designed to enhance deterrence and limit the opportunities for aggression. Further, the policies recommended by the Commission assume that matters related to the use of nuclear weapons exist in a vacuum. History teaches that the opposite is true. Issues related to the use of nuclear weapons are necessarily linked to issues related to the use of conventional weapons and other types of weapons of mass destruction. For these reasons, the U.S. should continue its policy of constructive ambiguity regarding the potential for the use of nuclear weapons.

Do not withdraw U.S. nuclear weapons from foreign locations where they are currently present. It is assumed that the U.S. has a small number of tactical nuclear weapons, in the form of gravity bombs, in Europe to support its NATO commitments. The Commission recommends that the U.S. withdraw these weapons from Europe and make a commitment not to deploy any type of nuclear weapon on foreign soil.

This recommendation is counterproductive. A major factor in limiting the proliferation of nuclear weapons has been the alliance commitments the U.S. has made to other states around the world. It is axiomatic that the pressure on Europeans, for example, to obtain nuclear weapons will grow if the U.S. moves to withdraw the weapons that are the means to counter nuclear blackmail or aggression. It is curious that the Commission would focus such attention on the value of negative security assurances by the U.S. to non-nuclear states, described above, while all but dismissing the value of the positive security assurances the U.S. provides to its allies. The U.S. should not take steps in either nonproliferation or arms control that are inconsistent with or call into question the security commitments it has extended to its allies.

Do not ratify the Comprehensive Test Ban Treaty (CTBT) or curtail U.S. nuclear weapons modernization efforts. The CTBT is a treaty of unlimited duration that prohibits explosive tests of nuclear weapons. The Treaty will enter into force 180 days after its ratification by 44 specifically named states. Of those named states, 34 have ratified it. Seven of the remaining ten have signed but not ratified it. Three have neither signed nor ratified it. It is unlikely that the CTBT will ever enter into force.

The Commission recommends that the ten remaining states required for entry into force, including the U.S., move quickly to ratify the CTBT. Further, it recommends that states refrain from nuclear testing. Finally, it recommends that CTBT signatories seek provisional entry into force of the Treaty.

President Clinton signed the CTBT on behalf of the U.S. in 1996. The Senate, however, voted to reject ratification of the Treaty in 1999. The Senate took this action because it recognized that a permanent prohibition on the testing of nuclear weapons would jeopardize the safety, reliability, and effectiveness of America's nuclear arsenal.

What was true in 1999 is true today. The fact is that the U.S. has a nuclear arsenal that is left over from the Cold War. This is the case despite the fact that the requirements for deterrence and the operational requirements for nuclear weapons are different from the Cold War era. As modernization efforts are curtailed, the risk grows that the U.S. nuclear arsenal will become ineffective in meeting projected needs. This makes it imperative that the U.S. modernize its nuclear arsenal to adapt it to the requirements of the post-Cold War world. While there is no certainty that such modernization efforts will require the resumption of explosive testing, it is very possible.

The evidence clearly leads to only one conclusion: U.S. ratification of the CTBT would run counter to U.S. interests and could also jeopardize the security of U.S. allies that depend on a modern and capable U.S. nuclear deterrent in the post-Cold War world.

The continued safety and reliability of the U.S. nuclear arsenal might also require the resumption of nuclear testing. First, nuclear testing has been used to discover whether there is a fundamental problem with a particular weapon in the arsenal. The U.S. has not conducted a test explosion since 1992. The longer this remains the case, the higher the risk that the U.S. military will continue to field a nuclear weapon with an undiscovered problem. Second, an explosive test might be required to certify that a fix to a problem with a type of weapon that is discovered by means other than explosive testing is in fact effective.

The Commission's recommendation regarding provisional entry into force of the CTBT is the most pernicious in this area. What it seeks to do is to marginalize the Senate's role in the treaty-making process. If the executive branch is able to select treaties that the U.S. will consider as having entered into force without formal Senate consideration and ratification, then the U.S. Constitution's requirement for direct Senate involvement in the treaty-making process will be rendered obsolete.

President Bush, for these and other reasons, has stated that the U.S. will not ratify the CTBT. Both security and constitutional reasons make it clear that President Bush's position on this issue is the correct one. There is no compelling reason why the U.S. should reverse its current position and ratify the CTBT and press for its entry into force. Indeed, the focus should be on modernizing the U.S. nuclear arsenal to give it new capabilities and make it more effective in meeting the security needs of the post-Cold War world.

Do not “de-alert” U.S. nuclear weapons. The Commission asserts that deployed U.S. strategic nuclear weapons are on “hair-trigger” alert. They are not. The U.S. military has effective and redundant command and control systems to reduce to an absolute minimum the likelihood that a weapon in the arsenal will be fired by accident or without proper authorization. What the Commission recommendation would do is to lengthen the time required to execute an authorized nuclear operation and thereby reduce the operational effectiveness of the U.S. nuclear arsenal.

Thus, the Commission, at one level, proposes a solution that is in search of a problem. Second, it would reduce the operational effectiveness of the U.S. nuclear deterrent and simply assume that the reduction in effectiveness will have no adverse impact on nonproliferation as would-be enemies seek to build capabilities to exploit the weakness and U.S. friends look to build the means to fill the gap in overall nuclear stability. Congress has a solemn responsibility to insure that the U.S. nuclear arsenal is operationally effective. The Commission is all but demanding that Congress step away from that responsibility.

Do not equate non-nuclear defensive systems, such as missile defense and space systems, with nuclear weapons. Perhaps the most outrageous of the Commission's recommendations would have the U.S. curtail its non-nuclear missile defense and space programs. First, it recommends that the U.S. “not consider the

deployment of any kind of missile defense system without first attempting to negotiate the removal of missile threats.” Second, it recommends that the U.S., along with other states, “renounce the deployment of weapons in outer space.” By including these recommendations in a report on “weapons of terror,” the Commission, perhaps inadvertently, is equating these non-nuclear and defensive systems with weapons of mass destruction. There is no justifiable reason to lump these two categories of weapons together.

The Bush Administration and Congress are pursuing missile defense capabilities in order to meet the most elemental defense needs of the American people and U.S. friends and allies against attack. It is pursuing military capabilities in space because space is already heavily militarized and weaponized and because the possession of these capabilities dramatically increases the effectiveness of the U.S. military. Both defensive and space systems will serve to lessen the appeal of weapons of mass destruction to states and even non-state actors that might otherwise seek them by raising questions about their potential effectiveness.

The Bush Administration and Congress are right to work to provide the U.S. military with robust missile defense and space capabilities. Doing so will not only improve the overall capability of the military to provide for national security in the post-Cold War world, but also serve to reinforce long-standing U.S. goals for stopping the spread of weapons of mass destruction generally and nuclear weapons in particular.

CONCLUSION

Mr. Chairman, the U.S. has had a long-standing interest in realizing the promise of the NPT to limit the number of nuclear weapon states in the world to the five recognized by the Treaty itself. Many recommendations have been put forward in the past to realize this goal, and no doubt there will be additional recommendations in the future. These recommendations must stand or fall on their individual merits. Just because an idea is put forward for the stated purpose of limiting nuclear proliferation does not mean that it necessarily serves that goal. In fact, many such proposals will appear on the surface to further the goal of nuclear nonproliferation while in reality serving to undermine progress in nonproliferation.

Dr. Blix’s Commission makes a number of recommendations that will make valuable contributions to the attempts to realize the goal of nuclear nonproliferation, but others have considerable surface appeal and only limited substantive merit. Congress therefore should not treat the Commission’s report as a “take it or leave it” proposition. It needs to discriminate between the various recommendations on the basis of their individual contributions to the cause of nuclear nonproliferation.

Mr. Chairman, consistent with House rules, I would like to describe The Heritage Foundation for you and the Committee. The Heritage Foundation is a public policy, research, and educational organization operating under Section 501(C)(3). It is privately supported and receives no funds from any government at any level, nor does it perform any government or other contract work.

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